

SIGNED.



UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF ARIZONA

Minute Entry

Hearing Information:

Debtor: SHERRYL LUANE MADISON
Case Number: 2:09-bk-22225-SSC Chapter: 13
Date / Time / Room: TUESDAY, DECEMBER 15, 2009 01:30 PM 7TH FLOOR #701
Bankruptcy Judge: SARAH SHARER CURLEY
Courtroom Clerk: LUANN BELLER
Reporter / ECR: ANDAMO PURVIS

Sarah Sharer Curley

SARAH S. CURLEY
U.S. Bankruptcy Judge

Matter:

CONTINUED PRELIMINARY HEARING ON MOTION FOR RELIEF FROM STAY FILED BY WELLS FARGO BANK
R / M #: 9 / 0

Appearances:

RICHARD CLARK, ATTORNEY FOR DEBTOR
KEVIN NELSON/LEONARD J. McDONALD, ATTORNEYS FOR WELLS FARGO BANK

Proceedings:

Mr. Clark explained the status including the District Court adversary complaint.

Mr. Nelson urged the motion stating that the property is not necessary for reorganization. He asked that if the stay is not granted that an evidentiary hearing be held within 30 days.

Court: After review of the pleadings and considering the arguments of counsel on the record, IT IS ORDERED that the automatic stay is vacated to allow the parties to pursue their rights and remedies under applicable law. Counsel for the Debtor and the creditor agree that the Arizona District Court has recently entered an order or judgment concerning a lawsuit commenced by the Debtor. Under Ninth Circuit law, it is arguable that the Debtor would need to seek relief from the stay to proceed with any appeal of such an adverse ruling as to her. See In re Ingersoll Rand (put in cite.) The parties have agreed that the stay should be vacated to allow the Arizona District Court to determine whether, upon legal or equitable grounds, the Debtor should be afforded a right to appeal the adverse ruling in the District Court.

HONORABLE SARAH SHARER CURLEY
United States Bankruptcy Judge